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**BY ECF**

December 28, 2012

Hon. Paul A. Engelmayer  
United States District Judge  
Southern District of New York  
500 Pearl Street  
New York, NY 10007

Re: U.S. v. Joseph Hernandez, No. 11 Cr. 1032 (PAE)

Dear Judge Engelmayer:

Please accept this letter-memorandum on behalf of Mr. Rodriguez as an aid to the Court in his sentencing, which is now scheduled for January 18, 2013 at 11:15 am. Mr. Rodriguez and I have reviewed his presentence report together at my office and he has the following corrections.

Page 17, Paragraph 87 - concerning his mother being divorced, Mr. Hernandez indicates that his mother separated from Melvin Polanco, but they are not yet divorced.

Page 18, Paragraph 89 - Mr. Hernandez indicates that he lived with his father in Queens, not in Yonkers, and that he lived with his father in the year 2009, not 2008.

Page 19, Paragraph 94 - concerning his marijuana use, Mr. Hernandez indicates that he began smoking marijuana at age 13 and he smoked it on the weekends from 13 to 16 years old; that he smoked marijuana almost daily from 16 to 18 years old; and that he smoked marijuana daily from age 18 until his arrest in this case.

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With these corrections, Mr. Hernandez accepts the report as written.

I have now worked with Mr. Hernandez since December 2011 and have found him to be a bright 23 year old young man who has grown and matured into an understanding of the crucial steps he needs to take to improve his life.

The presentence report indicates an unfortunate drug use history for a man of only 23 years, as his life choices have been gravely influenced by his personal circumstances. Mr. Hernandez began using marijuana at the age of 13, and used cocaine, Ecstasy, Oxycontin and Percocet at the age of 18. This drug use was continuous from the time he was in middle school and continued uninterrupted until his arrest in this case, impacting his education and young adult life.

Throughout the period of my representation, Mr. Hernandez has earnestly made efforts to change his circumstances towards a more productive future. While out on bail, he applied, was accepted to and attended the fall 2012 semester at Borough of Manhattan Community College. Mr. Hernandez plans to major in radiology/MRI/CT-scanning so that he can pursue a career as a radiologist. Mr. Hernandez decided to put off his enrollment for 2013 pending sentencing.

Further efforts towards improving his future includes Mr. Hernandez' plan not to return to his Bronx neighborhood. He has been living with his aunt in New Jersey since his release on bail in this case, and Mr. Hernandez has indicated that his mother and siblings will be moving from the Bronx back to New Jersey so that they can live as a family again and so that he does not have to return to his old neighborhood (see pre-sentence report paragraphs 88-90). Mr. Hernandez also looks forward to the possibility of establishing a closer bond with his father, who lives in Florida and has recently taken a more active role in their relationship since the inception of this case.

As per the plea agreement and the pre-sentence report, Mr. Hernandez' sentencing guidelines range is 30-37 months based on offense level of 19; he is in criminal history category I.

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Based on the factors above, and pursuant to 18 U.S.C. § 3553 (a), we respectfully request that you grant Mr. Hernandez a non-jail sentence of time served with supervised release. Such a sentence could include a period of home detention if the Court so directs. We also ask that any sentence include provisions for substance abuse treatment as directed by the Probation Department. Given such an opportunity, I believe that Mr. Hernandez will continue to grow, progress and lead a productive and self-supporting life.

Thank you for your kind consideration.

Sincerely,

s/

Frank Handelman

cc: AUSA Nola Heller  
AUSA Rachel Maimin  
AUSA Jessica Ortiz  
USPO Thomas J. McCarthy  
Joseph Hernandez